

**LEGISLATIVE RESEARCH COMMISSION (LRC)
ENERGY POLICY ISSUES**

COMMITTEE MEETING

February 15, 2012

Presentation - Verbatim

Dan Butler, Property Owner, Lee County.

Before I even begin my presentation, I would like to just say that, from a landowner's standpoint, the message I just heard from Jim is exactly what we as landowners want to hear, we want to see done, and we want to see implemented. He has summarized the technical information as well as the practical information to show you what is necessary to be done. And he is right; we don't need to study this thing for 40-60 more years. We have excellent references in Pennsylvania and New York demonstrating the best way to accomplish this. They are experienced with it. Piggyback off the work they have done and what they have spent. That's my pitch for Lee County. I do think Jim has really put a hammer on the nail head there explaining the pros and cons of what we should do going forward and I hope you all really take note of that.

I am Dan Butler. I am a third generation oil and gas owner and developer. My grandparents were born in Western Pennsylvania, where we now have oil wells being drilled by the hundreds in Alleghany State Forest. Later this year I will have the first Marcellus well drilled on my own property. And that is an exciting, new venture. Now this is in the middle of a state forest, so you can imagine there are tight restrictions and conditions on it. Pennsylvania knows how to deal with this type of industry. You can learn from Pennsylvania. The information here today is about Lee County which does not compare to Pennsylvania in some matters as it does in some others. The way it does not compare is in the royalties, the bonus payments, the financial aspects, and even some of the lease terms which you will experience in North Carolina. It is a simple reason; Pennsylvania has been doing this for over 100 years. This is a known producing area. They can afford to pay \$1500 to save \$3000 as a bonus payment because they know the geology; they know the history of what is going on there. Lee County is new, it's still wildcatting. We have wonderful information from DENR. If it weren't for DENR we would not be at this position today. They have done their research, they have done their homework and they should be respected highly in their opinions. But this still is wildcatting. I have two wells on my property right now in Lee County which were drilled in the last 30 years. Both wells detected gas but not gas in producing commercial quantities. I own 2,715 acres in Lee County. I have owned that property since 1975 where I bought the mineral rights from the surface owner. That is called severing the title. Severing that title did not harm those surface owners, because when they applied for loans and mortgages on their property, their attorneys would contact me to see if I owned the mineral rights. I

said yes. They then went to a company which would issue title insurance based upon the mineral being severed. When you stop to think about it, you have Pennsylvania, Texas, Colorado, all the energy producing states, 90% of the people who own land there do not own their mineral. It has been severed. It's not a big deal. If anyone doesn't know if they have title to the mineral they have a bad attorney or they don't know how to pick up the phone and call the court house and ask the Register of Deed, tell me, do I own a fee simple here or is something severed? It doesn't cost \$10,000 to find out if you have good title. It takes a telephone call. Or, you ask your attorney.

The acreage that I particularly have in Lee County is bordered by the Deep River and Highway 421. This property, I was approached by many different people to lease the property to them. Over the years I have made some bad mistakes and I leased to people that were, they were syndicators, they were like time-share people, they were just taking a lease and they were trying to flip it. This is going back 10 plus years. Currently, there is only one oil gas producing company that is in the business strictly oil/gas producing that is looking at Lee County. That is not bad. It takes one wildcat company that is going to put down probably \$20 million to figure out what is here. They will do the exploratory work. They will do the work to find out what's there. They will do it under the regulations that you impose upon them, which you should impose. But after they find through their test wells that they put down what they have, they then will bring in partners. That is the oil industry's way of doing things. They don't want to take 100% gamble on anything and Exxon and Shell never owns 100%, they own sometimes like a 40% working interest. So Whitmire Exploration Company is the company that is willing to put the money down so far and to do exploration work. They have done all they are probably going to do until the Legislature makes up their mind are we going to allow fracking and horizontal drilling here. If you turn that down, Whitmire will be gone. Your field of opportunity here will be gone for quite some time, maybe forever. The leases which I have heard reported about these fees of \$1 to \$10 per acre, I have no knowledge of that, I only have knowledge of my own personal lease. My personal lease carries a standard 12 ½% royalty. In Pennsylvania, on a Marcellus well, I am only getting 15% royalty, in some cases 18%. This is in a known producing area. So 12 ½% is not predatory. I hate that word but I keep hearing it around here. It is not predatory, 12 ½% is almost a high rate, but it is a very fair rate to be paying a landowner. Now the term of a lease does vary and in exploration work you want the longest possible term you can get in order that you can do the exploratory drilling, find out what you have, bring partners in to joint venture with you and drill a lot more wells. So, Whitmire's lease is a primary lease of 10 years. If they don't have any producing wells in that 10-year period, that is the end of the lease. If they have production, then the lease is increased another 10 years upon an additional bonus payment. Bonus payments are negotiable, like buying a car. There are still sticker prices on cars but there are not sticker prices on what well companies are willing to pay, it is negotiable. What North Carolina does badly need are good attorneys which can help interrupt the leases which can help advise people that

wish to lease. This is not a plug for Womble Carlyle but that is the only firm I know of, there could be others, that have any experience whatsoever on oil gas leases. They will tell you themselves, we do not know enough about this. Let us farm part of this question you have out to someone else. I went to attorneys. I had advice on legal matters there. I had the experience of being in the oil and gas business and making bad mistakes. To me, making mistakes is a really good way of learning things, because you don't want to make the same mistake twice. So you do need legal representation. But the standard form lease that Whitmire probably starts with is down the center, kind of a borderline fair lease. It covers 90% of all the issues a former speaker just said that are not covered in leases. It does cover protection of the landowner as well as protection of the mineral owner. It does give setback restrictions. It does give compensation for disturbing the person's property. It does give right-of-way bonuses for putting a right of way down for a pipeline. I can tell you only on one situation because I am only involved in one situation. The Whitmire lease is almost like a boilerplate lease, but it does have all the protections which they have in New York State, Pennsylvania and other states. However, you still can take that lease, and you should take that lease, and get someone that is competent to review it for you.

I was told to speak specifically on leasing so I think I have covered as much of that in depth as I wish to go.

I would appreciate any questions so I can direct my conversation towards that.

There were no questions for Mr. Butler.